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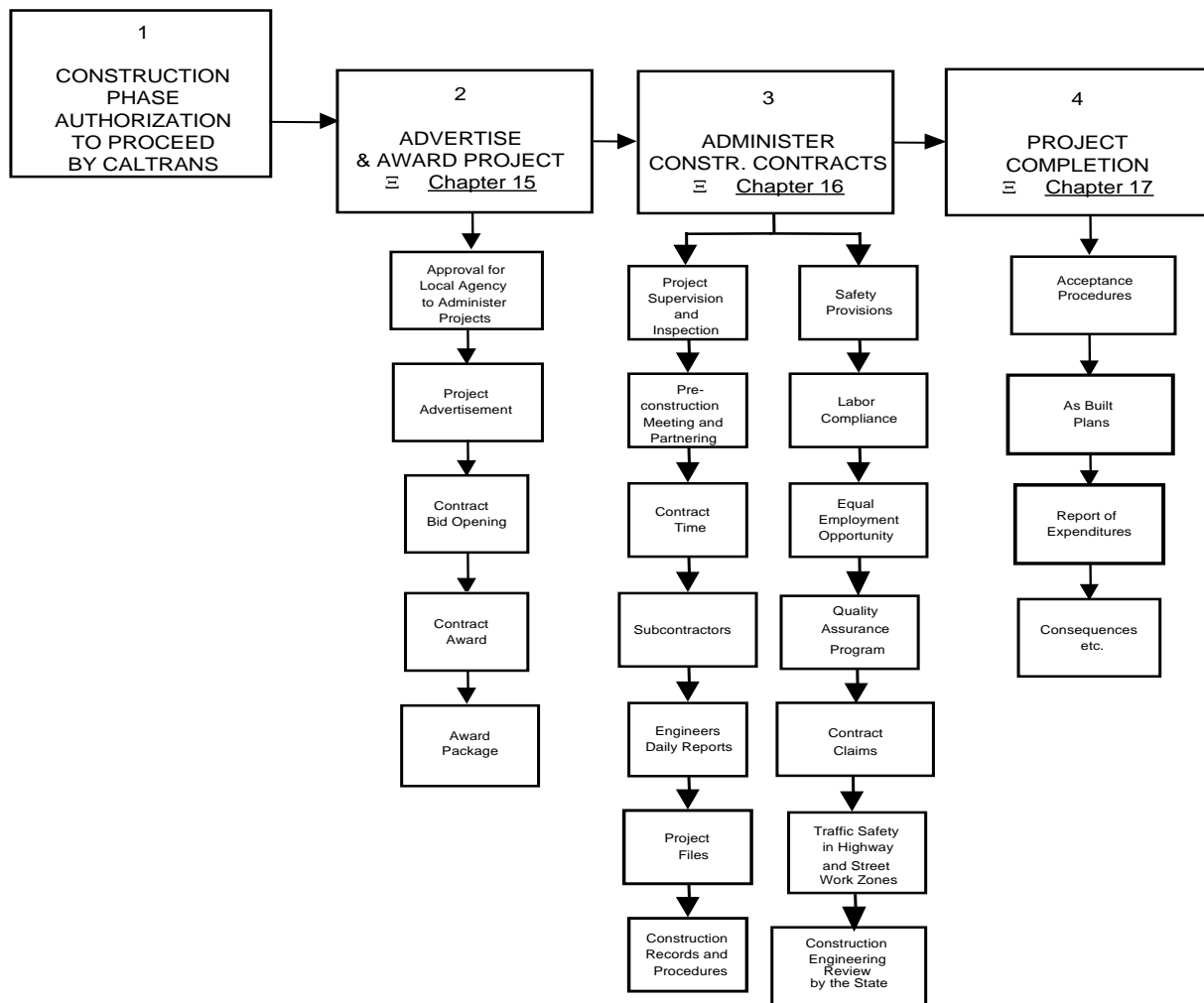
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CHAPTER 15 ADVERTISE AND AWARD PROJECT

15.1 INTRODUCTION

This chapter, Chapter 16, “Administer Construction Contract,” and Chapter 17, “Project Completion,” are for use by local agencies who administer federal-aid construction projects under an “Administering Agency-State Agreement.” When a locally sponsored project is within the state right of way (R/W) and the state (Caltrans) is the administering agency, the state’s *Construction Manual* is used.

FIGURE 15-1 ADVERTISE & AWARD PROJECT



This chapter covers the activities beginning with advertising of a construction contract and continuing through the bid opening, award, and detail estimate procedures. It has been prepared mainly as a guide for administration of federal-aid contracts by local agencies. Each local agency Resident Engineer should be familiar with the contents of this chapter, Chapter 16, “Administer Construction Contract,” and Chapter 17, “Project Completion” before administering such contracts.

15.2 DEFINITION OF TERMS ACRONYMS

- AASHTO - American Association of State Highway and Transportation Officials
- AC - Advance Construction is a project authorization technique that allows the Federal Highway Administration to authorize a project without obligating Federal funds. FHWA is required to fully obligate the Federal share of a Federal-aid project at the time it executes a project agreement. Under an AC authorization, FHWA approves a project as being eligible for Federal funding but does not commit to funding the project. As such, the project must meet all Federal requirements except for the requirement to obligate funds.
- ASTM - American Society for Testing and Materials
- Administering Agency - The state or a city, county, other public agency, or nonprofit organizations, that advertises, opens bids, awards and administers the contract. They are frequently called local agency or agency and were previously called responsible agency.
- Bid Rigging - a conspiracy to disrupt or circumvent the competitive environment by establishing a competitive advantage for certain bidders.
- CCO - Contract Change Order
- CE - Construction Engineering. This phase includes the work of project advertising¹ through construction, preparation of as-built plans, final estimates, and payments. This phase must be authorized prior to advertising, and CE must be separately identified in this authorization.
- CFR - Code of Federal Regulations
- Contingencies - An amount of funds usually a small percentage of the detail estimate, set aside for unforeseen items or quantities of work not specified in the contract documents, but required to complete the project. The percentage used for contingencies varies depending on the type and scope of work.
- Contract Administration - Includes advertising, opening bids, award, and execution of the contract; control of work and material; and making payments to the contractor.
- Contractor - The person or persons, firm, partnership, corporation, or combination thereof, who have entered into a contract with the administering agency, as party or parties of the second part of his/her or their legal representatives.
- DBE - Disadvantaged Business Enterprise. A for-profit “small business concern” that is at least 51 percent owned and controlled by one or more socially and economically disadvantaged individuals. One or more such individuals must also control the management and daily business operations. These individuals must be citizens (or lawfully admitted permanent residents) of the United States and (1) any

¹ CE includes advertising only if not included in PE phase and only after authorization date.

individual who a federal-aid recipient finds to be a socially and economically disadvantaged individual per 49 CFR 26 on a case-by-case basis, or (2) who are either Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans (persons whose origin are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal or Sri Lanka), Women, or any other group found to be socially and economically disadvantaged as determined by the Small Business Administration (see 49 CFR, Part 26)

- Department of Transportation - The Department of Transportation of the State of California, as created by law, also referred to as Department, State, or Caltrans.
- District - A subdivision of the department organized to administer the affairs of the Department for a specific geographical area and for the local agencies in that area (see Exhibit 2-A of the LAPM).
- DLA - Division of Local Assistance (Caltrans Headquarters unit only)
- DLAE - The District Local Assistance Engineer, the individual in each district responsible for providing services and assistance to the local agencies.
- E-76 - Federal-aid Program Document titled: "Authorization to Proceed" Form.
- EA - Expenditure Authorization number
- EEO - Equal Employment Opportunity
- ER - Emergency Relief
- Finance Letter - A document required by Local Program Accounting (see Exhibit 15-N) and submitted by the administering agency to Caltrans with information required as backup for the federal-aid/state project agreement.
- FSTIP - Federal Statewide Transportation Improvement Program
- HPMS - Highway Performance Monitoring System
- Headquarters - The Headquarters office of the Department located at 1120 "N" St., Sacramento, CA 95814.
- Invoice - A detailed list of expenditures that an administering agency requests reimbursement for with federal funds, pursuant to the Local Agency-State Agreement (see Chapter 5, Exhibit 5-B, "Sample Federal-aid Invoice with Two Appropriations & Different Reimbursement Rates").
- ISTEA - Intermodal Surface Transportation Efficiency Act of 1991. ISTEA was an Act signed by the President on December 18, 1991, providing authorization for six (6) years for highways, highway safety, and mass transportation. ISTEA was superseded by TEA-21 in 1998 and by SAFETEA-LU in 2005.
- LRH - Last Resort Housing
- Local Agency - A California city, county or other local public agency. In many instances this term is used loosely to include nonprofit organizations
- Local Agency-State Agreement - Agreement between the State and local agency. Generally refers to the Master Agreement and all supplemental agreements (Program Supplements) to the Master Agreements. These agreements are required for the State to provide reimbursement to the local agency for all federal-aid projects.

- Locode - Numeric identifier for each local agency or administering agency (assigned by the Division of Local Assistance).
- LPP - Local Programs Procedures. Documents used for deployment of new procedures and policies between updates of Local Assistance manual, guidelines and programs. Each procedure is numbered according to calendar year and order in which released.
- MPO - Metropolitan Planning Organization
- NHS - National Highway System, a specially Designated Highway System established by the Intermodal Surface Transportation and Efficiency Act of 1991 and adopted by the United States Congress.
- Office Engineer - Chief of the Headquarters or District Office of Office Engineer. The office engineering unit is responsible for insuring that the PS&E is complete, biddable and buildable.
- PE - Preliminary Engineering, this phase includes all project initiation and development activities undertaken after its inclusion in the approved FSTIP through the completion of PS&E. It may include preliminary Right of Way engineering and investigations necessary to complete the NEPA document.
- PS&E - Plans, Specifications & Estimate
- Prequalification - The AASHTO defines prequalification as a means of predetermining job experience and work capacity and to identify individuals and organizations from which the agency may accept a bid. The AASHTO also has encouraged the use of prequalification procedures in its *1981 Suggested Guidelines for Strengthening Bidding and Contract Procedures*.
- RAP - Relocation Assistance Program
- R/W - Right of Way, This phase includes the work necessary to appraise and acquire project right of way, relocate individuals or businesses, and revise or relocate utilities.
- Report of Expenditures - Collectively refers to the following final report documents: Final Inspection of Federal-aid Project (FIF 7/96), Final Invoice, Final Detail Estimate, Change Order Summary (containing liquidated damages/contractor's claims, date of completion, date of acceptance by City or County), Final Report of Utilization of Disadvantaged Business Enterprise (DBE), Materials Certificate, and Report of Completion of Structures if bridges were constructed.
- Resident Engineer – A qualified engineer who is empowered to administer the construction contract. Pursuant to California professional engineering licensing requirements, the resident engineer may be unlicensed provided their work is performed under the review of a licensed engineer.
- S&H Code - California Streets and Highways Code
- SHA - State Highway Agency (Caltrans)
- SAFETEA-LU - Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users signed into law by President George W. Bush on August 10, 2005, with guaranteed funding for highways, highway safety, and public transportation totaling \$244.1 billion. SAFETEA-LU represents the largest surface transportation investment to date. SAFETEA-LU was built on the foundation established by the two preceding Federal Transportation Acts: ISTEA and TEA-21.

- Supplemental Work - Work that is anticipated but because of its uncertainty, cannot be included as a contract item e.g., additional staking, utility work, etc. If supplemental work is determined to be needed, a change order is required to include it in the contract. This work should normally be part of the contingencies.
- Surety - A security against loss or damage or for the fulfillment of contract obligation, bond.
- TEA-21 - Transportation Equity Act for the 21st Century. Enacted on June 9, 1998, which authorized the federal surface programs for highways, highway safety, and transit for the six year period 1998-2003.

15.3 APPROVAL FOR LOCAL AGENCY TO ADMINISTER PROJECTS

MAJOR NHS PROJECTS

Caltrans must approve the local agency's construction administration procedures before a local agency can advertise the construction of a federally financed major NHS project (see Chapter 7 "Field Reviews" for the determination by the DLAE of which NHS projects will be considered major). The procedures should be discussed in general at the field review and detailed written procedures shall be approved by the DLAE before the local agency will be allowed to administer any construction contracts for the project.

Additionally, a local agency shall not advertise the project until it has received in writing an "Authorization to Proceed" with construction from Caltrans (see Chapter 3, "Project Authorization").

The written construction administration procedures should cover the following items:

- Construction Management personnel and procedures
- Consultant use and selection
- Project advertisement, bid opening and award procedures
- Pre-Construction Procedures
- Subcontracting
- Traffic Safety procedures
- Materials Testing

- Change order review and approval procedures
- Oversight procedures if a State highway is involved
- Maintenance of records and Access
- Estimates and Progress Payment

The DLAE will consult with Headquarters DLA for assistance with the review and approval of the local agency procedures.

ALL OTHER PROJECTS

Approval by Caltrans of the local agency's construction administration procedures will not be required for all other projects. However, each agency that administers a federal-aid construction project will be required to complete a "Local Agency Construction Contract Administration Checklist" (Exhibit 15-A) before their "Request for Authorization to Proceed with Construction" will be approved. **A local agency shall not advertise a project until it has received in writing an "Authorization to Proceed" with construction from Caltrans (see Chapter 3, "Project Authorization").**

15.4 PROJECT ADVERTISEMENT

INTRODUCTION

One of the most basic tenets of Federal aid contracting is that construction contracts are to be awarded competitively to the contractor which submits the lowest responsive bid. Project advertisement is the process used in soliciting such competitive bids from contractors.

This federal mandate is set forth in 23 U.S.C. 112 and reinforced by 23 CFR 635.114(a) which requires that:

"Federal-aid contracts shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting the criteria of responsibility as may have been established by the SHA..."

These principles are the basis for Federal assistance to the state highway construction programs.

On locally administered projects, the construction engineering is performed by local agency personnel, unless arrangements are made to hire a consultant. If a consultant is used, the local agency must still designate an employee of the agency as the person in responsible charge of the project. The only exception to this procedure is if the administering agency has hired a consultant on retainer to act as the City Engineer or Public Works Director. Then the consultant may act as the person in responsible charge of the project.

Construction engineering for "locally administered" projects shall be performed in accordance with the requirements found in Chapter 16, "Administer Construction Contract" of this manual.

Each local agency and all of its contractors, subcontractors, and vendors shall take all reasonable steps to assure that DBEs have equitable opportunity to compete for and perform contracts (see Chapter 9, “Civil Rights and Disadvantaged Business Enterprises”).

WARNING:

No project shall be advertised for bids, nor shall any project work (by contract or other than contract) be undertaken, and no materials shall be purchased on any federal-aid project, prior to issuance of “Authorization to Proceed” by FHWA. Violation of this requirement shall result in the project being ineligible for federal funding.

Only one exception to this requirement can be made. It is for emergency relief projects involving emergency repair/opening of a facility. For more information on emergency relief projects see the *Local Assistance Program Guidelines*, Chapter 11, “Disaster Assistance”.

Advertising costs shall be charged to the preliminary engineering work authorization if such authorization has been requested and has been established for the purpose of federal reimbursement.

PROCEDURES

Prior to project advertisement, the administering agency shall certify that their final PS&E package complies with all applicable federal and state regulations and procedures (see Exhibit 12-C “PS&E Certification”). Local agencies should also complete and retain the “Local Agency Project Advertising Checklist” (Exhibit 15-C) in the project files prior to requesting an Authorization to Proceed. All administering agencies must submit a completed “Request for Authorization” with the PS&E Certification before they can receive verification that construction has been authorized by Caltrans.

Upon receipt of “Authorization to Proceed” for construction by Caltrans, the local agency can proceed to advertise the project.

During the advertising period, the administering agency shall notify all prospective bidders of PS&E addenda in the same manner as all other nonfederal-aid projects. For award of federal-aid contracts, the local agency is required to certify that all bidders certify receipt of all addenda. The administering agency shall ensure free and open competition. The advertisement period is determined by the administering agency. A minimum advertisement period of three weeks is required for all federal-aid projects. Caltrans District Local Assistance Engineer may approve shorter periods in special cases where justified with a local agency Public Interest Finding (LAPM Exhibit 12-F). The advertising period begins with publication of a “Notice to Contractors” in a newspaper receiving wide local circulation. The Notice shall identify the DBE project availability advisory. The administering agency is responsible to approve and issue all addenda to the PS&E during the advertising period.

The local agency shall assure that all updated estimates are fundable from available local or federal resources.

As soon as the project is advertised, the local agency shall furnish the DLAE with one copy of the “as advertised” plans and special provisions or two copies if structures (bridges) are involved.

15.5 CONTRACT BID OPENING

INTRODUCTION

The contract bid opening is a public forum for the announcement of all bids, and is that point in time where the bids are opened and read aloud. It is also the last moment that bids can be accepted. No bids can be accepted during or after bids are opened. Normally the advertisement/bid documents will state a final time in which bids can be accepted. For the bidder, the reading of the bids confirms whether his bid is successful. For the local agency and the general public, this forum establishes the cost to build the project. The bid opening requirements as outlined below apply to all federal-aid highway construction projects.

REQUIREMENTS

FHWA policy requires all bids to be opened publicly and read aloud either item-by-item or by total amount. If a bid is not read, the bidder is to be identified and the reason for not reading the bid announced.

Reasons for not reading a bid include the bid itself being nonresponsive, often called “irregular” or the bidder is determined to be unreliable. Responsive bid and responsible bidder are defined as:

A Responsive bid is one that meets all the requirements of the advertisement and proposal, while

A Responsible bidder is one who is physically organized and equipped with the financial ability to undertake and complete the contract.

Some reasons for not reading a bid due to bidding irregularities include:

- Failure to sign the bid
- Failure to furnish the required bid bond
- Failure to include a unit bid price for each item
- Failure to include a total amount for the bid
- Failure to prepare the bid in ink
- Failure to submit a completed addenda certification statement
- Failure to submit a noncollusion affidavit
- Failure to commit to the achievement of the UDBE contract goals or demonstrate good faith efforts to do so
- Inclusion of conditions or qualifications not provided for in the specifications
- Submission of a materially unbalanced bid

The above examples do not include all possible bidding irregularities. The local agency’s standard specifications govern regarding what constitutes a bidding irregularity.

Accordingly, the local agency’s bidding documents should clearly identify those requirements with which the bidder must comply to make the bid responsive.

Just as the bid may be rejected for being irregular or unresponsive, a bid may also be rejected on the grounds that the bidder is not a responsible bidder. A bidder may be deemed not responsible because of past unsatisfactory performance, as evidenced by failure to meet the local agency's qualification requirements, or because of State or federal suspension/debarment action. The administering agency should check to see if a contractor is suspended or debarred from federal contracts. A publication titled, *A Listing of Parties Excluded from Federal Procurement and Nonprocurement Programs* is available electronically in the internet at: <http://epls.arinet.gov>.

Note: Contractor's "Debarment and Suspension Certification" is part of the "Notice to Contractors and Special Provisions" boilerplate.

In summary, a successful bid opening should identify the **responsible bidder** submitting the lowest **responsive bid**.

PROCEDURES

The administering agency shall follow its own procedures for bid opening, provided such procedures include:

- As bids are received, they shall be logged in and stamped with the time and date.
- The bids shall be retained in a secure place until the designated time and place for public opening.
- All bids received in accordance with the terms of the advertisement shall be publicly opened and announced either item by item or by total amount.
- If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the bid opening.
- Negotiation with contractors, during the period following the opening of bids and before the award of the contract shall not be permitted.

If a local agency elects to prequalify contractors, the agency's prequalification procedures shall not include procedures or requirements for bonding, insurance, prequalification, qualification or licensing of contractors, which may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed.

Prequalification of contractors may be required as a condition for submission of a bid or award of contract only if the period between the date of issuing a call for bids and the date of opening of bids affords sufficient time to enable a bidder to obtain the required prequalification rating. For further discussion on prequalification of bidders see: AASHTO publication on *Suggested Guidelines for Strengthening Bidding and Contract Procedures* (which is available in the FHWA Contract Administration Core Curriculum).

The agency's bidding procedures shall not discriminate against any qualified bidder regardless of political boundaries. No bidder shall be required to obtain a license before submitting a bid or before the bid is considered for award of a contract, which includes federal financing; however, a State contractor's license must be obtained upon award of the contract. The local agency may also withhold payment under such contract until such time as the contractor furnishes proof of a proper license in compliance with State laws. No local agency shall bid in competition with, or enter into a subcontract with private contractors. As bids are received, they shall be logged in and stamped with the time and date. The bids shall be retained in a secure place until the designated time and place for public opening.

The administering agency shall retain the following completed documents for the successful bidder in the project file:

- Local Agency Bidder UDBE Commitment (Construction Contracts) (Exhibit 15-G1)
- Local Agency Bidder DBE Information (Construction Contracts) (Exhibit 15-G2)
- A list of bidders and total amounts bid with an item-by-item breakdown (see Exhibit 15-D, "Bid Tabulation Summary Sheet [Sample]") of the three lowest bidders
- The Noncollusion Affidavit (see Chapter 12, "Plans Specifications & Estimate," Exhibit 12-E, Attachment D, "Noncollusion Affidavit")
- A Local Agency Bid Opening Checklist (Exhibit 15-I)

Where the lowest bid exceeds the engineer's estimate by an unreasonable amount as defined by established agency procedures, or where competition is considered to be poor for the size, type, and location of project, bids may be rejected unless an award of contract is justified as being in the best interest of the public. See Section 15.6, "Contract Award, Bid Analysis Process," and *FHWA Technical Advisory T 5080.4 (December 29, 1980)*, and *T 5080.6 (December 17, 1982)* for additional information regarding bid reviews. These technical advisories can be found in the appendix to the *US DOT, FHWA pub; Contract Administration Core Curriculum*.

The administering agency shall assure that all bids submitted include a completed addenda certification statement. The addenda certification statement is as follows:

ADDENDA - This bid is submitted with respect to the changes to the contract included in addendum number/s_ (Fill in number/s if addenda have been received.)

Warning - If an addendum or addenda have been issued by the administering agency and not noted above as being received by the bidder, this Bid may be rejected.

15.6 CONTRACT AWARD

INTRODUCTION

WARNING:

No project shall be advertised for bids, nor shall any project work (by contract or other than contract) be undertaken, and no materials shall be purchased on any federal-aid project, prior to issuance of “Authorization to Proceed” by Caltrans or the FHWA. Violation of this requirement shall result in the project ineligible for federal funding.

The contract award is a critical milestone for all federal-aid projects. At this point, the administering agency must have a complete financial package assuring adequate funding for the project. The administering agency shall award federal-aid contracts on the basis of the lowest responsive and responsible bidder. It is the administering agency's responsibility to assure that all successful bidders are licensed contractors upon award of any contract incorporating State or federal-aid funds.

BID ANALYSIS PROCESS

The administering agency should conduct a **bid analysis** for each project. The bid analysis is required for projects on the National Highway System. The bid analysis is the process performed to justify the award or rejection of the bids and should assure that good competition and the lowest possible cost were received. A proper bid analysis better ensures that funds are being used in the most effective manner. A bid analysis also assists the agency in preparing accurate engineering estimates on future projects.

The bid analysis process is an examination of the unit bid prices for reasonable conformance with the engineer's estimated prices. Beyond the comparison of prices, other factors that a bid analysis may consider include:

- Number of bids
- Distribution or range of the bids
- Identity and geographic location of the bidders
- Urgency of the project
- Unbalancing of bids
- Current market conditions and workloads
- Potential for savings if the project is re-advertised
- Comparison of bid prices with similar projects in the letting
- Justification for significant bid price differences
- Other factors as warranted

The *Contract Cost Data* publication by Caltrans is available to assist local agencies in preparing accurate engineers estimates. This annual publication is available in electronic form on the Internet. Instructions for downloading this information are located at:
http://www.dot.ca.gov/hq/esc/oe/awards/#item_code.

Not all of the factors above need to be considered for bids that indicate reasonable prices or show good competition. However, when the low bid exceeds the engineer's estimate by an unreasonable amount, a more thorough analysis should be undertaken to determine if the bids should be rejected or a justification for award of the contract can be made. In order to justify award of a contract under these circumstances, the following criteria should be examined:

- Was competition good?
- Is the project essential and deferral would be contrary to public interest?
- Would re-advertisement result in higher bids?
- Is there an error in the engineer's estimate?
- Is the increase within the amount programmed in the FTIP?

For NHS projects, written justification shall be included in the project file for projects where the lowest responsible bidder exceeds the engineer's estimate by 10% or more. The justification should explain the reasons for the difference between the engineer's estimate and bid amount, and why it was decided to award the contract.

Regarding the adequacy of competition, the FHWA "*Guidelines on Preparing Engineer's Estimate, Bid Reviews and Evaluation*" outlines recommended procedures for preparing engineer's estimates and or reviewing bids prior to award. The web site is at <http://www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm>. Location and availability of bidders should also be considered when determining adequacy of competition. Some projects may be so essential that deferral, even for 60 days, would not be in the public's interest. Examples of such projects might include:

- Safety projects to correct an extremely hazardous condition where the traveling public is in danger.
- Emergency repairs or replacement of damaged facilities.
- Projects to close substantial gaps in otherwise completed facilities to allow opening to traffic.
- Projects that are critical to staged or phased construction and delay would significantly impact the completion of the whole project.

Unbalanced bids are one of the factors to review in a bid analysis. The two types of unbalanced bids are as follows:

- A mathematically unbalanced bid is a bid that contains lump sum or unit bid items that do not reasonably reflect the actual costs (plus reasonable profit, overhead costs, and other indirect costs) to construct the item, and
- A materially unbalanced bid is a bid that generates reasonable doubt that award to that bidder would result in the lowest ultimate cost to the government.

To detect mathematical unbalancing, the unit bid items should be evaluated for reasonable conformance with the engineer's estimate and compared with the other bids received. There are no definitive parameters (e.g., an amount or percent of variance from the engineer's estimate) that constitutes an unbalanced bid. The degree of unbalancing of a bid may depend on the reason for the unbalancing. Mathematically unbalanced bids, although not desirable, may be acceptable.

The determination of mathematically unbalanced bids may be aided by the use of one of the several computer software packages now available. However, the final decision should not preclude the use of engineering judgment. Care must also be exercised to ensure that unit bids for mobilization do not mask unbalancing. Also, "token bids" (i.e., bids with large variations from the engineer's estimate) should be considered as mathematically unbalanced bids and further evaluation and other appropriate steps should be taken to protect the public interest.

There may be situations where the quantity of an item could vary due to inaccuracies in the estimating, errors in the plans, changes in site conditions or design, etc. In such situations, the bids should be further evaluated to determine if the low bidder will ultimately yield the lowest cost. If unbalancing creates reasonable doubt that award would result in the lowest ultimate cost, the bid is materially unbalanced and should be rejected or other steps should be taken to protect the public interest.

AWARD PROCEDURES

The administering agency shall follow its normal procedures for award of the project and is delegated the authority to determine the lowest responsive/responsible bidder without concurrence to award by Caltrans or the FHWA. Written justification shall be included in the project file for all projects that are not awarded to the lowest bidder. The administering agency shall follow its normal procedures for award of the contract and assure that all federal requirements are followed. A bid analysis is not a requirement but is recommended. The administering agency shall retain the executed contract, document the award date, and the Preconstruction conference minutes. The State shall not participate in resolving disputes between the administering agency and its bidders.

It is the responsibility of the administering agency to verify with the DLAE and RTPA/MPO that the appropriate amount of federal funds is authorized before the project is awarded.

POST-AWARD REVIEWS

The administering agency should conduct post-award bid evaluations to assure against bid rigging. An adequate number of projects awarded over a sufficient time period should be evaluated. A period of approximately 5 years should be selected for an initial evaluation to determine if any abnormal competitive bid patterns exist. The following information should be considered in a post-award review for abnormal bid patterns:

- Number of contract awards to a specific firm
- Project bid tabulations
- Firms that submitted a bid and later become a subcontractor on the same project

- Rotation of firms being the successful bidder
- Consistent percentage differential in the bids
- Consistent percentage of the available work in a geographic area to one firm or to several firms over a period of time
- Consistent percentage differential between the successful bid and the engineer's estimate
- Location of the successful bidder's plant versus location of the other bidders' plants
- Variations in unit bid prices submitted by a bidder on different projects in the same bid opening
- Type of work involved
- Number of plans and proposal taken out versus the number of bids submitted
- Any other items that indicate noncompetitive bidding
- On re-advertised projects, if the eventual successful bidder was also low bidder on the first letting

TERMINATION OF CONTRACTS

- (a) All NHS contracts exceeding \$10,000 shall contain suitable provisions for termination by the administering agency, including the manner by which the termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
- (b) Prior to termination of a federal-aid contract that is subject to FHWA Full Oversight, the administering agency shall consult with and receive the concurrence of the Caltrans DLAE. In addition, for all other federal-aid contracts the administering agency shall notify the DLAE of the termination. The extent of federal-aid participation in contract termination costs, including final settlement, depends on the merits of the individual case. However, under no circumstances shall federal funds participate in anticipated profit for work not performed.
- (c) Except as provided for in paragraph (e) of this section, normal local agency federal-aid plans, specifications, estimates, advertising, and award procedures are to be followed when an administering agency awards the contract for completion of a terminated federal-aid contract.
- (d) When an administering agency awards the contract for completion of a federal-aid contract previously terminated for default, the construction amount eligible for federal participation on the project should not exceed whichever amount is the lesser, either:

- (1) The amount representing the payments made under the original contract plus payments made under the new contract, or
 - (2) The amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract.
- (e) If the surety awards a contract for completion of a defaulted federal-aid contract, or completes it by some other acceptable means, the FHWA considers the terms of the original contract in effect and that the work be completed in accordance with the approved plans and specifications included therein. No further FHWA approval or concurrence action is therefore needed in connection with any defaulted federal-aid contract awarded by a surety. Under this procedure, the construction amount eligible for federal participation on the project should not exceed the amount representing what the cost would have been, if the construction had been completed as contemplated by the plans and specifications under the original contract.

15.7 AWARD PACKAGE

The administering agency shall complete and forward the following information as one package to the DLAE immediately after award of the contract and prior to submitting the first invoice of the construction phase:

- The Local Agency Contract Award Checklist (Exhibit 15-L in this chapter)
- Detail Estimate (Exhibit 15-M in this chapter)
- Finance Letter (Exhibit 15-N in this chapter)
- Resident Engineer's Construction Contract Administration Checklist (see Exhibit 15-B in this chapter)
- Copy of the Local Agency Bidder DBE Information (Construction Contracts) (Exhibit 15-G2 in this chapter)

The purpose of the Local Agency Award Checklist is to minimize delays in processing payments for federal-aid projects.

A "Detail Estimate" (see Exhibit 15-M) and "Finance Letter" (see Exhibit 15-N) must be prepared outlining all project costs by Improvement Type Code. From the information contained in the Detail Estimate, Division of Local Assistance will prepare a revised Authorization to Proceed (E-76), which automatically updates the funding agreement between Caltrans and FHWA. If the award amount is more, or significantly less than the amount estimated at the time of authorization, the administering agency should submit a revised E-76 and revised Finance Letter to the DLAE along with the Award Package.

NOTE: If the amount of federal funds obligated and agreed to in the "Authorization to Proceed (E-76)" is less than the full pro-rata share, the federal reimbursement ratio used in the Detail Estimate and subsequent progress invoices will be held at the ratio of federal funds to total project funds authorized in the E-76. That ratio may be increased in the final Detail Estimate and Final invoice up to the full pro-rata share to utilize the full amount of federal funds authorized.

The local agency and State personnel involved shall ensure timely processing of the Master Agreement, Program Supplement, Detail Estimate, and Finance Letter. The local agency is responsible for ensuring that the various forms are complete and accurate.

If at any time during construction, the project cost is expected to overrun, the administering agency must submit a Revised Detail Estimate **along with a request for modification of the Authorization to Proceed (E-76)**, and a revised Finance Letter. The Revised Detail Estimate should include the effects of all change orders and anticipated changed work through the end of the contract. This is to avoid future revisions.

It is the administering agencies responsibility to ensure that there are enough federal-aid funds programmed by their MPO/RTPA (STP, TEA, or CMAQ) or Caltrans (HSIP, HBP, ER, and RRX), to cover an increase due to a revised detail estimate. If additional federal funds are required, the local agency must obtain written approval from the MPO/RTPA or Caltrans prior to submitting a Revised Detail Estimate.

The Resident Engineer assigned to the project shall complete and sign the Resident Engineer's Construction Contract Administration Checklist. The purpose of this checklist is to assure that the resident engineer is familiar with the federal requirements before the project starts. Deficiencies in contract administration procedures discovered by process reviews are difficult to correct "after the fact." If the project has proceeded to the point that a deficiency cannot be corrected, federal and/or state funds may be withdrawn.

The DLAE shall perform a review of these documents for correct format and obvious errors and/or omissions. Complete and accurate documents will be forwarded to the DLA. The master agreement and program supplement must be executed prior to reimbursement. Invoices from the administering agency for the construction phase will be processed for reimbursement only after the project award information is submitted.

15.8 REFERENCES

23 USC 112
23 USC 114(a)
23 CFR 635
23 CFR part 40
23 CFR 630 Subpart C
49 CFR 26
California Public Contract Code, Chapter 6, Section 6100
California Public Contract Code Section 7106
FHWA TA T 5080.4, *Preparing Engineer's Estimate and Reviewing Bids* - 1980
FHWA TA T 5080.6 *Guidelines on Contract Procedures with Emphasis on Bid Reviews and Evaluation* - 1982
DOT, FHWA 1997 *Contract Administration Core Curriculum*
FHWA *Final Report Process Review on Competition in Bidding and Engineer's Estimate Review* - 1991
US DOT/US Dept. of Justice, *Suggestions for the Detection and Prevention of Construction Contract Bid Rigging* - 1983
AASHTO *Suggested Guidelines for Strengthening Bidding and Contract Procedures* - 1981
SAFETEA-LU Web site: <http://www.fhwa.dot.gov/safetealu/index.htm>

EXHIBIT 15-A LOCAL AGENCY CONSTRUCTION CONTRACT ADMINISTRATION CHECKLIST

Local Agency _____

I ADVERTISE AND AWARD PROJECT**A. Project Advertisement**

- ☐ Projects are not advertised until the Authorization to Proceed (E-76) for the construction phase has been approved by Caltrans FHWA.
- ☐ For all Federal-aid projects, a minimum of three weeks for project advertisement is required (15.4 "Project Advertisement").

B. Contract Bid Opening

- ☐ All bids are opened publicly and read aloud either item-by-item, or by total amount. If a bid is not read, the bidder is to be identified and the reason for not reading the bid announced (15.5 "Contract Bid Opening")

The following documents will be completed and retained in the project files.

- ☐ For federal-aid projects, a list of bidders and total amount bid with an item-by-item breakdown (Exhibit 15-D, "Sample Bid Tabulation Summary Sheet") of the three lowest bidders.
- ☐ Bidders' list to be compiled from prime and subcontractors bidding or quoting on contract.
- ☐ If a DBE goal is specified, the original of the Local Agency Bidder DBE Commitment (Construction Contracts) (Exhibit 15-G).
- ☐ EEO Certification (Exhibit 12-E, Attachment C), The Noncollusion Affidavit (Exhibit 12-E, Attachment D), Non-Lobbying Certification (Exhibit 12-E, Attachment F), Disclosure of Lobbying Activities (Exhibit 12-E, Attachment G)
- ☐ Local Agency Bid Opening Checklist (Exhibit 15-I)

C. Contract Award

- ☐ Contracts are awarded on the basis of the lowest responsive bid from a responsible bidder (15.6 "Contract Award").
- ☐ For all NHS projects, a bid analysis will be performed (15.6 "Contract Award").
- ☐ No negotiations with contractor occurred prior to award (not allowed).

The following documents will be forwarded to the Caltrans District Local Assistance Engineer immediately after award of the contract:

- ☐ Contract Award Checklist (Exhibit 15-L)
- ☐ Detail Estimate (Exhibit 15-M)
- ☐ One copy of the Local Agency Bidder DBE Commitment (Construction Contracts) (Exhibit 15-G)
- ☐ Finance Letter
- ☐ RE's Checklist

D. Subcontracting

- ☐ For all federal-aid transportation projects, at least 30% of the contract work is to be performed by the prime contractor (see Chapter 16, Section 16.6 "Subcontractors")

Local agency's person in "Responsible Charge"

(date)

Distribution: (1) Original Local Agency Project File
(2) One copy - DLAE

EXHIBIT 15-B RESIDENT ENGINEER'S CONSTRUCTION CONTRACT ADMINISTRATION CHECKLIST

This form is to be completed and signed by the local agency's Resident Engineer and submitted with Local Agency's Award Package

This form was created to help local agency Resident Engineers with the administration of the federal-aid projects. This list does not contain all the federal-aid requirements for administration of federal-aid projects. Resident Engineers are advised to review the *Local Assistance Procedures Manual* to be familiar with all the federal-aid requirements.

This form shall be used as reference if the local agency's federal-aid project is subject to a Process Review.

Local Agency Name _____

Federal-aid Project No. _____

1. Contract Staffing:

- ☐ Names and titles of all staff assigned to the contract shall be in the contract files and shall be adequate (see Chapter 16, Section 16.3 "Project Supervision and Inspection").
- ☐ Date of Pre-construction Conference (Attendees list in contract file) _____

2. Authorization:

- ☐ Date of the "Authorization to Proceed with Construction" _____
(Shall be prior to date project was advertised)
- ☐ Date the project was advertised _____

3. Contract Files:

- ☐ Files shall be in an established order and separate from other contracts (see Chapter 16, Section 16.8 "Project Files").

Check one of the following: Index used on this project is ☐ Local agency's standard for all jobs, or
☐ For federal-aid jobs only.

4. Resident Engineer's/Construction Inspectors Daily Diaries:

- ☐ Shall be current, thorough and neat with detailed information on all work performed (see Chapter 16, Section 16.7 "Engineer's Daily Reports").

5. Construction Records and Accounting Procedures:

- ☐ Detail Estimate(s) and Finance Letter(s) are in the project files.
- ☐ Amount of federal-aid funds encumbered for the project, _____
- ☐ Program Supplemental Agreement is in the project files.

Distribution: 1) Local Agency Project File
2) DLAE (please put on first page only)

☐ There shall be source documents supporting progress payments made to Contractor.

☐ There shall be separate item sheets for each contract item paid.

☐ There shall be a procedure for Administrative or Labor Compliance deductions.

☐ Invoices to the State shall match progress payments made to the Contractor.

6. Contract Time:

☐ A method shall be established to determine contract time (see Chapter 16, Section 16.5 "Contract Time").

7. Labor Compliance:

☐ Certified payrolls shall be spot-checked against daily diaries and prevailing wages (see Chapter 16, Section 16.11 "Labor Compliance").

Local agency's Labor Compliance Officer: _____

8. EEO:

☐ Maintain records to ensure EEO requirements are performed and documented in contract record (see Chapter 16, Section 16.12 "Equal Employment Opportunity").

Local agency's EEO Compliance Officer: _____

9. EEO/Wage Rate/False Statements Posters:

☐ Federal posters shall be posted for every worker to see at, or near, the contractor's office at the construction site or at the workers central gathering point.

10. Employee Interviews:

☐ There shall be employee interviews conducted (see Chapter 16, Exhibit 16-N).

11. OJT: (Refer to Chapter 12, Section 12.9, pages 12-23 thru 25 of the LAPM)

☐ Is the job less than 100 working days? Yes ☐ No ☐

If Yes, proceed to Item #12. If No, answer the questions below.

What is the total dollar amount of the items listed on page 12-24: \$ _____

What is the required number of trainees for this contract? _____

☐ Documentation will be retained in project files to account for the apprentices on the job.

12. DBE:

☐ UDBE Contract Goal Percentage: _____

☐ Local Agency's DBE Liaison Officer: _____

☐ Verified that copies of the completed Local Agency Bidder UDBE Commitment (Construction Contracts) (Exhibit 15-G1) and the Local Agency DBE Information (Construction Contracts) (Exhibit 15-G2) have been submitted to the DLAE immediately upon award.

- ☐ A copy of the Contractor's completed Local Agency Bidder UDBE Commitment (Construction Contracts) (Exhibit 15-G1) in project files.
- ☐ A copy of the Contractor's completed Local Agency Bidder DBE Information (Construction Contracts) (Exhibit 15-G2) in project files.
- ☐ Contractor has been provided "Monthly DBE Trucking Verification" Form (see Chapter 16, Exhibit 16-Z, of the LAPM)

13. CCOs/CLAIMs:

- ☐ A CCO approval process shall be established. For NHS projects, major change orders will be approved by DLAE prior to performance of work (see Chapter 16, Section 16.13 "Contract Change Orders").
- ☐ There shall be a list of the approved CCOs.
- ☐ All CCOs shall note federal-aid eligibility or not.
- ☐ Pending claims to be identified and documentation in contract file

14. Traffic Safety in Highway and Street Work Zones:

- ☐ Traffic Control Plan (TCP)/Traffic Management Plan (TMP) in the PS&E? Yes ☐ No ☐
(see Chapter 16, Section 16.6 "Traffic Safety in Highway and Street Work Zones")
Comments:

Responsible Person _____ (if not the RE)

- ☐ Local Agency shall field review the project to see that the TCP agrees with the actual conditions.
- ☐ Local Agency shall be analyzing construction work site accidents for the purpose of correcting deficiencies which might be found to exist on these projects and to improve the content of future TCPs.

15. Materials Files:

- ☐ The Quality Assurance Program (QAP) is in the project files (see Chapter 16, Section 16.14 "Quality Assurance Program").
- ☐ There shall be procedures for and filing of: (if appropriate)
 - Notice of Materials to be used
 - Certifications of Compliance
 - "Buy America" Requirements
- ☐ Acceptance Sampling and Testing Reports shall be in the files.
- ☐ There shall be a "Summary Log" of tests.
- ☐ Frequency tables shall be used.

☐ Failed tests shall be documented in the files with cross references to re-tests.

☐ Resident Engineer shall review all test reports.

16. Environmental

☐ The approved NEPA document is in the project files.

☐ The construction project shall adhere to the mitigation requirements in the approved NEPA document.

17. For Projects on the State Highway System

☐ A Caltrans Encroachment Permit has been issued.

☐ Local Agency shall comply with State's Representative's oversight requirements.

Local Agency's Resident Engineer
agency employee or Consultant,
(Consultants on retainer are considered
Local Agency employees)

Local Agency's person in "Responsible (Local)
Charge" if Resident Engineer is a Consultant.

Date: _____

EXHIBIT 15-C LOCAL AGENCY PROJECT ADVERTISING CHECKLISTProject: _____
DIST-----CO-----RTE-----PM-----Agency

Federal Project # _____

Location: _____

Limits: _____

	<u>YES</u>	<u>NO</u>	<u>NOT APPLICABLE</u>
PS&E Review	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are the following complete?			
Mitigation commitments incorporated	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Right of Way Certification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Design	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Traffic (Electrical/Signing/Striping)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Materials	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Landscaping	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hydraulics	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Permits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bridge Plans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are all encroachments permits obtained?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are design exceptions approved?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is material testing and sampling arranged?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DBE Annual Submittal Form approved?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is there force account work for this project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is agency furnished material approved?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are the federal funds for construction authorized?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has a fund allocation been approved by the California Transportation Commission (if required)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have a complete set of Plans and Special Provisions been sent to the Caltrans District Local Assistance Engineer (two copies if structures (bridges) are involved)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How long is the advertisement period? _____			

Reviewed by: _____

(Name of Local Agency Representative)

Title: _____

Date: _____

Distribution: Local Agency Project File

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Project Information:	_____
	DIST-----CO-----RTE-----PM-----Agency
Federal Project Number:	_____
Location:	_____
Limits:	_____

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March 15, 2001

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NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

CONTRACT UDBE GOAL: _____

**INSTRUCTIONS - LOCAL AGENCY BIDDER
UDBE COMMITMENT (CONSTRUCTION CONTRACTS)**

ALL BIDDERS:

PLEASE NOTE: It is the bidder's responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) African Americans; 2) Asian-Pacific Americans; 3) Native Americans; 4) Women. This information may be submitted with your bid. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in the Special Provisions. Failure to submit the required UDBE commitment will be grounds for finding the bid nonresponsive

A UDBE is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: African Americans, Asian-Pacific Americans, Native Americans, or Women.

The form requires specific information regarding the construction contract: Local Agency, Location, Project Description, Total Contract Amount, Bid Date, Bidder's Name, and Contract UDBE Goal.

The form has a column for the Contract Item Number and Item of Work and Description or Services to be Subcontracted or Materials to be provided by UDBEs. Prime contractors shall indicate all work to be performed by UDBEs including, if the prime is a UDBE, work performed by its own forces, if a UDBE. The UDBE shall provide a certification number to the Contractor and expiration date. Enter the UDBE prime's and subcontractors' certification numbers. The form has a column for the Names of UDBE contractors to perform the work (who must be certified on the date bids are opened and include the UDBE address and phone number).

IMPORTANT: Identify **all** UDBE firms participating in the project regardless of tier. Names of the First-Tier UDBE Subcontractors and their respective item(s) of work listed should be consistent, where applicable, with the names and items of work in the "List of Subcontractors" submitted with your bid.

There is a column for the UDBE participation dollar amount. Enter the Total Claimed UDBE Participation dollars and percentage amount of items of work submitted with your bid pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the UDBE, describe exact portion of time to be performed or furnished by the UDBE.) See Section "Disadvantaged Business Enterprise (DBE)," of the Special Provisions (construction contracts), to determine how to count the participation of UDBE firms.

Exhibit 15-G1 must be signed and dated by the person bidding. Also list a phone number in the space provided and print the name of the person to contact.

Local agencies should complete the Local Agency Contract Award, Federal-aid Project Number, Federal Share, Contract Award Date fields and verify that all information is complete and accurate before signing and filing.

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

CONTRACT UDBE GOAL: _____

[illegible]

(Area Code) Telephone Number: _____

%

Date (Area Code) Tel. No.

Local Agency Bidder DBE Information (Construction Contracts)
(Rev 6/26/09)

Page 15-32a
January 27, 2012

INSTRUCTIONS - LOCAL AGENCY BIDDER DBE INFORMATION (CONSTRUCTION CONTRACTS)

SUCCESSFUL BIDDER:

The form requires specific information regarding the construction contract: Local Agency, Location, Project Description, Total Contract Amount, Bid Date, Bidder's Name, and Contract UDBE Goal.

The form has a column for the Contract Item Number and Item of Work and Description or Services to be Subcontracted or Materials to be provided by DBEs. Prime contractors shall indicate all work to be performed by DBEs including work performed by its own forces, if a DBE. The DBE shall provide a certification number to the Contractor and expiration date. Enter DBE prime and subcontractors certification number. The DBE contractors should notify the Contractor in writing with the date of the decertification if their status should change during the course of the contract. The form has a column for the Names of DBE certified contractors to perform the work (must be certified on the date bids are opened and include DBE address and phone number.

IMPORTANT: Identify **all** DBE firms participating in the project--including all UDBEs listed on the UDBE Commitment form (Exhibit 15-G1), regardless of tier. Names of the First-Tier DBE subcontractors and their respective item(s) of work listed should be consistent, where applicable, with the names and items of work in the "List of Subcontractors" submitted with your bid.

There is a column for the DBE participation dollar amount. Enter the Total Claimed DBE Participation dollars and percentage amount of items of work submitted with your bid pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the DBE, describe exact portion of time to be performed or furnished by the DBE.) See Section "Disadvantaged Business Enterprise (DBE)," of the Special Provisions (construction contracts) to determine how to count the participation of DBE firms.

Exhibit 15-G2 must be signed and dated by the successful bidder. Also list a phone number in the space provided and print the name of the person to contact.

Local agencies should complete the Local Agency Contract Number, Federal-aid Project Number, Federal Share, Contract Award Date fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure to submit a completed and accurate form within the 15-day time period may result in the de-obligation of funds on this project.

District DBE Coordinator should verify that all informations is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

EXHIBIT 15-H UDBE INFORMATION —GOOD FAITH EFFORTS**UDBE INFORMATION - GOOD FAITH EFFORTS**

Federal-aid Project No. _____ Bid Opening Date _____

The _____ (City/County of) _____ established an Underutilized Disadvantaged Business Enterprise (UDBE) goal of _____% for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the “Local Agency Bidder UDBE Commitment” form indicates that the bidder has met the UDBE goal. This will protect the bidder’s eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a UDBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the “Local Agency Bidder UDBE Commitment” form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled “Submission of UDBE Commitment” of the Special Provisions:

- A. The names and dates of each publication in which a request for UDBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications	Dates of Advertisement
_____	_____
_____	_____
_____	_____

- B. The names and dates of written notices sent to certified UDBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the UDBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of UDBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- C. The items of work which the bidder made available to UDBE firms including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate UDBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate UDBE participation was made available to UDBE firms.

Items of Work	Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract

- D. The names, addresses and phone numbers of rejected UDBE firms, the reasons for the bidder's rejection of the UDBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each UDBE if the selected firm is not a UDBE:

Names, addresses and phone numbers of rejected UDBEs and the reasons for the bidder's rejection of the UDBEs:

Names, addresses and phone numbers of firms selected for the work above:

- E. Efforts made to assist interested UDBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to UDBEs:

- F. Efforts made to assist interested UDBEs in obtaining necessary equipment, supplies, materials or related assistance or services, excluding supplies and equipment the UDBE subcontractor purchases or leases from the prime contractor or its affiliate:

- G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using UDBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization	Method/Date of Contact	Results

- H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.

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EXHIBIT 15-I LOCAL AGENCY BID OPENING CHECKLISTProject Information: _____
DIST-----CO-----RTE-----PM-----Agency

Federal Project Number: _____

Location: _____

Limits: _____

Bid opening date and time

Bid opening by _____ Name: _____

Bids publicly opened and read aloud? _____ (Yes/No) _____

Addenda certified by _____

Advertisement date _____

Engineers Estimate Compared? _____ (Yes/No) _____

Low Bidder Name _____

Amount _____

Number of Bidders _____

Bid irregularities? _____ (Yes/No) _____

Noncollusion affidavit included (Exhibit 12-E, Attachment D)? _____ (Yes/No) _____

Low Bid signed? _____ (Yes/No) _____

Local Agency Bidder UDBE Commitment (Construction _____ (Yes/No) _____

Contracts) included (Exhibit 15-G1) _____

All Addenda certified by all bidders? _____ (Yes/No) _____

Reviewed by: _____
(Name of Local Agency Representative)

Title: _____

Date: _____

Distribution: Original- Local Agency Project File

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EXHIBIT 15-L LOCAL AGENCY CONTRACT AWARD CHECKLIST

Project Sponsor: _____

Federal-aid project #: _____

Location: _____
DIST-----CO------(Road/Street or RTE)-----PM-----AgencyLimits: _____
(Physical limits reference post miles or intersections)

Has Caltrans issued an "Authorization to Proceed" in writing with federal funds included for construction, and is the amount correct?	(yes/no)
Copy of engineers estimate:.....	to be attached
Is material testing and sampling arranged?.....	(yes/no)
Copy of low bidder's proposal:	to be attached
Low Bid signed in ink?	(yes/no)
Is a Good Faith Effort Statement of UDBE Participation included in the low bidder's proposal?	(yes/no)
Only required if UDBE goal is not achieved (Exhibit 15-H)	not applicable
Local Agency Bidder UDBE Commitment included (Exhibit 15-G1)	to be attached
Is the Noncollusion Affidavit (Chapter 12, "PS&E," Exhibit 12-E, Attachment D) included in the low bidders' proposal?	(yes/no)
Is the Bid summary (itemized bids for 3 lowest bidders) complete?.....	(yes/no)
Addendum procedures adhered to?.....	(yes/no)
TIP information, Authorized amount.....	\$ amount
Include TIP page number or amendment number here:.....	
Bid opening procedures were adhered to?.....	(yes/no)
Date DLA's Federal Wage Rate website was checked for updates *.....	date
Date of bid opening	date
Date of award.....	date
Amount of award	\$ amount
Detail Estimate (Exhibit 15-M):	to be attached
Finance Letter (Exhibit 15-N):	to be attached
Resident Engineer's Construction Contract Administration Checklist	to be attached
Is successful bidder licensed?.....	(yes/no)

Reviewed by: _____
(SIGNATURE OF LOCAL AGENCY REPRESENTATIVE)_____
(NAME PRINTED OR TYPED)

Title: _____

Date: _____

Phone Number: _____

* If the date listed is more than 10-calendar days before bid opening, local agency must provide documentation that web site was subsequently checked within the 10-calendar day period or after bid opening, and there were no changes in the applicable federal wage rates.

LPP 09-02

EXHIBIT 15-M DETAIL ESTIMATE

File: _____
 Federal Project No.: _____
 Project Location: _____
 Date: _____

To be used as a basis of agreement for Federal-aid Project #(1) _____
 in the City/County of(2) _____

Construction Authorization Date:(3) _____, _____

Type: (4) _____

Preliminary Engineering (Authorization Date:(5) _____, _____

Right of way (Acquisition Authorization Date:(6) _____, _____

Acquisition (No. Parcels _____) \$ _____
 RAP
 (number homes _____) \$ _____
 (number businesses _____) \$ _____
 LRH (Parcel No. Name _____) \$ _____
 TOTAL COST \$(7) _____

Utilities (Authorization Date:(8) _____, _____

Total Cost \$ _____

Improvement Type Code: (9) _____

Length (10) _____ (miles)

Item Estimate (11)

ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	\$
2	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	\$
3	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	\$
"	"	"	"	"	"
"	"	"	"	"	"

Subtotal Contract Items \$ _____

Agency/State Furnished Materials \$(12) _____

Force Account (Day Labor) - striping, etc. \$ _____

Total \$ _____

Contingencies (Including supplemental work) \$(13) _____

Contract Total \$ _____

Construction Engineering \$(14) _____

TOTAL COST \$ _____

Distribution: All Projects: (1) Original + 4 copies-Caltrans District Local Assistance Engineer. (2) Copy-Local Agency Project File

**DETAIL ESTIMATE
SUMMARY (15)**

	Total Cost	Participating Cost	Federal Funds	Other Funds
Preliminary Engineering	\$ _____	\$ _____	\$ _____	\$ _____
Right of way	\$ _____	\$ _____	\$ _____	\$ _____
Construction: <u>Improvement type</u>				
Code _____	\$ _____	\$ _____	\$ _____	\$ _____
Code _____	\$ _____	\$ _____	\$ _____	\$ _____
Construction Engineering:				
Total Cost	\$ _____	\$ _____	\$ _____	\$ _____

Contract Items Participating	=	\$ (16) _____	=	_____ %
Contract Items nonparticipating	=	\$ _____	=	_____ %
Total	=	\$ _____	=	100.00 %

* Reimbursement Ratio: (17) _____ %

Appropriation Code(s) (18)

Name/Date Prepared _____

* Reimbursement ratios may vary within each phase of work such as Emergency Relief PE for Emergency Repair (100%) and PE for restoration (88.53%). In these cases, the detailed estimate shall include two separate lines of preliminary engineering.

Distribution: All Projects (1) Original + 4 copies-Caltrans District Local Assistance Engineer.
(2) Copy-Local Agency Project File

DETAIL ESTIMATE INSTRUCTIONS

1. File
 - Fill in project identification
example: Dist-County-Rte-City: 07-LA-0-LA
 - Federal-aid Project #: STPL-5006(023)
 - Federal-aid Program: Surface Transportation Program, population > 200,000
2. Project Location
 - Fairly detailed (list intersections or project limits, etc.) Should agree with Authorization to Proceed
3. Construction Authorization Date
 - FHWA/Caltrans authorization date on the Authorization to Proceed
4. Type
 - General type of work (signalization, widening, construct four-lane divided street, etc.) Chapter 3, "Project Authorization," Exhibit 3-F-(Item 38)
5. P.E. Authorization
 - FHWA/Caltrans authorization date on the Authorization to Proceed
6. Right of way Authorization
 - FHWA/Caltrans authorization date on the Authorization to Proceed
7. Right of way Costs
 - Total for project
8. Utility Authorization
 - FHWA/Caltrans authorization date on the Authorization to Proceed
9. Improvement Type Code

01 New Construction Roadway	23 Transit
03 Reconstruction, Added Capacity	24 Traffic Management/Eng. HOV
04 Reconstruction, No added Capacity	26 Ferry Boats
05 4R Maintenance Resurfacing	28 Facilities for Pedestrian & Bicycle *
06 4R Maintenance-Restoration & Rehab	29 Acquisition of Scenic Easements *
07 4R Maintenance-Relocation	30 Scenic or Historic Highway Prog. *
08 Bridge, New Construction	31 Landscaping & Scenic Beautification*
10 Bridge Repl. Added Capacity **	32 Historic Preservation*
11 Bridge Repl. No Added Capacity **	33 Rehab & Operation of Historic Facility*
13 Bridge Rehab. Added Capacity **	36 Archeological Plan & Research *
14 Bridge Rehab. No Added Capacity **	37 Mitigation of Water Pollution*
15 Preliminary Engineering *	38 Safety & Education of Ped. Bike*
16 Right of Way	39 Establishment of Transp. Museum*
17 Construction Engineering *	40 Special Bridge*
18 Planning	42 Training
20 Environmental Only	43 Utilities
21 Safety	44. Other
22 Rail/Highway Crossing	45Debt Service

*Transportation Enhancement Projects must use these Types of Improvements.

**Projects using these Improvement Types must report a National Bridge Inventory Structure Number.

10. Length
 - Length in miles (to nearest 0.1) is required for roadway codes and for bridge codes
 - Measured along center line
 - Not required for "Miscellaneous" codes

11. Item Estimate

- List Each bid item per sample format
- Separate by “improvement type code” as noted above in item # 9. (should be same as preliminary estimate)
- Place nonparticipation work directly following participating work of similar codes
- Separate as “not part of Federal-aid Project” that work which is beyond project limits of federal participation but is being done under the same contract

12. State/Agency Furnished Materials

- List each item and cost of all items or expenses that are to be furnished by other than contractor
- Should agree with items listed in Special Provisions and Plans

13. Contingencies

- Generally 5% to 10%
- FHWA does not want supplemental work segregated from contingencies
- If large amount of supplemental work, 10% may be exceeded, but contingencies should always be at least 5%
- Separate for each code, etc.

14. Construction Engineering

- Separate for each code, etc.
- Indicate staking, construction trailer, etc., if claimed for reimbursement

15. Detail Estimate Summary

- Summary generally broken down only between P.E., Construction, and Right of way
- Improvement Type Codes and nonparticipating involved, must be outlined in summary
- Calculate P.E., Construction (by code) and Right of way separately at appropriate reimbursement ratio
- Federal funds share of phase cannot be more than the fund reimbursement ratio times the participating costs. (Always round down to the nearest dollar).

16. Federal Participation Calculation

- Use contract items only

17. Reimbursement Ratio (Federal) (See list in Chapter 3, “Project Authorization”)

- Use current ratio
- Project ratio if under funded

18. Program Code(s) (Federal) NOTE: Formerly known as Appropriation Code(s)

- Program code(s) applicable to the program(s) involved (see list in Chapter 3, “Project Authorization”)

19. Revised Detail Estimate or Modification

- Required when federal funds are to be changed from what was previously under agreement
- Changes can be accomplished by updating item costs, supplemental work, contingencies, etc.
- Change Title to “Revised Detail Estimate.”
- Must remain consistent with FTIP/FSTIP rules
- Wording to be changed in Item 2 by adding “To be used as basis for modification of agreement for federal-aid project.”
- Remaining instructions are unchanged

EXHIBIT 15-N FINANCE LETTER

DEPARTMENT OF TRANSPORTATION
DIVISION OF ACCOUNTING
LOCAL PROGRAM ACCOUNTING BRANCH

ATTN: _____

Work on State Highway (Y or N): ____ If yes, provide following:

Administered by State or Local? _____

Project Manager Name: _____

Accounting Program Code(s): _____

Coop or Contribution Agrmnt No.: _____

Date: _____
Agency: _____
Fed Project No.: _____
EA No.: _____
PPNO.: _____
Bridge No.: _____

	TOTAL COST OF PARTICIPATION WORK	FEDERAL COST	FEDERAL FUND TYPE (1)	FEDERAL FUND TYPE (2)	STATE MATCH FUNDS	LOCAL MATCH FUNDS	OTHER FUNDS
PRELIMINARY ENGINEERING							
Agency Preliminary Engineering							
State Furnished Preliminary Engineering							
Overhead at ____ %							
RIGHT OF WAY (R/W)							
Purchase Costs							
Relocation Assistance /Utility							
CONSTRUCTION							
Contract Items							
Utilities							
Supplemental Work							
Contingencies							
Trainees							
Agency/State Furn. Mat.							
Contract Total:							
CONSTRUCTION ENGINEERING							
Agency Construction Engineering							
State Furnished Construction Engineering							
Overhead at ____ %							
State Furnished Materials Testing							
Overhead at ____ %, Subjob _____							
Striping by Agency							
Force Account Work by Agency							
TOTALS:							

Federal Participation: _____

Federal Appn. Code(s): _____

Federal Reimbursement Rate(s) for Progress Invoice:

PHASE	FED (1)	FED (2)
PE		
R/W		
CON		

Certification

I certify that this Finance Letter accurately reflects the current cost estimate for all phases of the project obligated but not fully expended.

Signature : _____

Title : _____

Project location : _____

For questions regarding finance letter, contact:

Printed Name: _____

Telephone No.: _____

Distribution: 1) Original + 4 copies- DLAE
2) Copy- Local Agency Project File

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